

NOTICE OF INTENT TO PROMULGATE ADMINISTRATIVE REGULATION

February 9, 2000

Natural Resources and Environmental Protection Cabinet

Department for Environmental Protection

Division of Water

(1) **401 KAR 5:072, Concentrated Animal Feeding Operations.** The subject matter of the administrative regulation to be promulgated is concentrated animal feeding operations.

(2) The Natural Resources and Environmental Protection Cabinet, Division of Water, intends to promulgate an administrative regulation governing the subject matter listed above.

(3) Two public hearings to receive oral and written comments on the proposed administrative regulation have been scheduled. The first is March 28, 2000, at 6:30 p.m. (eastern time), at the Western Hills High School, 100 Doctors Drive, Frankfort, Kentucky. The second is March 30, 2000, at 6:30 p.m. (central time) in the Madisonville Technology Center, Byrnes Auditorium, 750 North Laffoon Drive, Madisonville, Kentucky. Persons may also submit written comments on the proposed administrative regulation to the Division of Water at the address given below, by 4:30 p.m. (eastern time) on March 30, 2000.

(4) (a) The Frankfort public hearing will be held if it is requested by at least ten (10) calendar days prior to March 28. The Madisonville public hearing will be held if it is requested by at least ten (10) calendar days prior to March 30. The request must be in writing, by five (5) persons, or by an administrative body, or an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing.

(b) If a request for a public hearing, and agreement to attend the public hearing, are not received from the required number of people at least ten (10) days prior to March 28th (Frankfort hearing) and at least ten (10) days prior to March 30th (Madisonville hearing), the public hearing will be canceled.

(c) Consideration will be given to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing. Written comments may be submitted to the address listed in (5)(a) below.

(d) The hearing facility is accessible to persons with disabilities. Requests for reasonable accommodations, including auxiliary aids and services necessary to participate in the public hearing, should be made to the contact person listed in (5)(a) below at least ten (10) calendar days prior to the public hearing.

(5)(a) Persons wishing to request a public hearing or submit written comments should mail or fax their written request to the following address: Jack A. Wilson, Director, Division of Water, 14 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601, telephone number (502) 564-3410, fax number (502) 564-0111.

(b) On a request for public hearing, a person shall state:

1. "I agree to attend the public hearing."; or

2. "I will not attend the public hearing."

(6)(a) KRS Chapter 13A provides that persons who desire to be informed of the intent of an administrative body to promulgate an administrative regulation governing a specific subject matter may file a request to be informed by the administrative body.

(b) Persons who wish to file this request may obtain a request form from the Division of Water at the address listed above.

(7) Information relating to the proposed administrative regulation:

(a) The statutory authority for the promulgation of administrative regulation relating to concentrated animal feeding operations (CAFOs) is KRS 224.10-100, 224.16-050, 224.20-100, 224.20-110, 224.20-120, 224.70-100, 224.70-110, and 33 U.S.C. 1342.

(b) The administrative regulation that the Natural Resources and Environmental Protection, Division of Water, intends to promulgate will be a new regulation for the permitting of concentrated animal feeding operations. It will require integrator liability and siting criteria for concentrated animal feeding operations. Concentrated animal feeding operations is defined in 401 KAR 5:002.

(c) The necessity and function of the proposed administrative regulation is as follows: This administrative regulation sets forth conditions applicable to all KPDES permits from concentrated animal feeding operations and procedures for establishing and calculating permit conditions relating to integrator liability and siting.

(d) The expected benefits from the administrative regulation are: The citizens of the Commonwealth will be assured that the operation of concentrated animal feeding operations will protect the waters of the Commonwealth.

(e) The administrative regulation will be implemented as follows: On and after the effective date of this regulation, the permitting of these operations will be governed by the provisions contained in this regulation. Copies of the emergency regulation that contain the cabinet's current requirements are available from the Division of Water at the above address.